

# Exhibit D

# Supreme Court of the State of New York

## Appellate Division: First Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

|  |  |   |
|--|--|---|
| <b>Case Title:</b> Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended. |  | <b>For Court of Original Instance</b>   |
| Nationale Rifle Association of America<br><br><div style="text-align: center;">- against -</div> Letitia James, in her capacity as Attorney General                                      |  | <div style="border: 1px solid black; height: 60px; margin-top: 20px;"></div> <p style="text-align: center; margin-top: 5px;">Date Notice of Appeal Filed</p>  |
|  |  | <b>For Appellate Division</b>   |
|  |  |   |
| Case Type  | Filing Type  |   |
| <input type="checkbox"/> Civil Action<br><input type="checkbox"/> CPLR article 75 Arbitration  | <input checked="" type="checkbox"/> CPLR article 78 Proceeding<br><input type="checkbox"/> Special Proceeding Other<br><input type="checkbox"/> Habeas Corpus Proceeding | <input checked="" type="checkbox"/> Appeal<br><input type="checkbox"/> Original Proceedings<br><input type="checkbox"/> CPLR Article 78<br><input type="checkbox"/> Eminent Domain<br><input type="checkbox"/> Labor Law 220 or 220-b<br><input type="checkbox"/> Public Officers Law § 36<br><input type="checkbox"/> Real Property Tax Law § 1278 |
|  |  | <input type="checkbox"/> Transferred Proceeding<br><input type="checkbox"/> CPLR Article 78<br><input type="checkbox"/> Executive Law § 298<br><input type="checkbox"/> CPLR 5704 Review  |
| <b>Nature of Suit:</b> Check up to three of the following categories which best reflect the nature of the case.  |  |   |
| <input type="checkbox"/> Administrative Review   | <input checked="" type="checkbox"/> Business Relationships   | <input type="checkbox"/> Commercial   |
| <input type="checkbox"/> Declaratory Judgment  | <input type="checkbox"/> Domestic Relations  | <input type="checkbox"/> Election Law   |
| <input type="checkbox"/> Family Court  | <input type="checkbox"/> Mortgage Foreclosure  | <input type="checkbox"/> Miscellaneous  |
| <input type="checkbox"/> Real Property (other than foreclosure)  | <input type="checkbox"/> Statutory   | <input type="checkbox"/> Taxation   |
|  |  | <input type="checkbox"/> Contracts  |
|  |  | <input type="checkbox"/> Estate Matters   |
|  |  | <input type="checkbox"/> Prisoner Discipline & Parole   |
|  |  | <input type="checkbox"/> Torts  |

## Appeal

Paper Appealed From (Check one only):

If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> Amended Decree      | <input type="checkbox"/> Determination          | <input type="checkbox"/> Order              | <input type="checkbox"/> Resettled Order  |
| <input type="checkbox"/> Amended Judgement   | <input type="checkbox"/> Finding                | <input type="checkbox"/> Order & Judgment   | <input type="checkbox"/> Ruling           |
| <input type="checkbox"/> Amended Order       | <input type="checkbox"/> Interlocutory Decree   | <input type="checkbox"/> Partial Decree     | <input type="checkbox"/> Other (specify): |
| <input checked="" type="checkbox"/> Decision | <input type="checkbox"/> Interlocutory Judgment | <input type="checkbox"/> Resettled Decree   |   |
| <input type="checkbox"/> Decree              | <input type="checkbox"/> Judgment               | <input type="checkbox"/> Resettled Judgment |   |

Court: Supreme Court

County: New York

Dated: 08/19/2019

Entered: 8/19/19

Judge (name in full): Melissa Crane

Index No.: 158019/2019

Stage: ☐ Interlocutory ☒ Final ☐ Post-FinalTrial: ☐ Yes ☒ No If Yes: ☐ Jury ☐ Non-Jury

## Prior Unperfected Appeal and Related Case Information

Are any appeals arising in the same action or proceeding currently pending in the court?

☐ Yes ☐ No

If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.

Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:

## Original Proceeding

Commenced by: ☐ Order to Show Cause ☐ Notice of Petition ☐ Writ of Habeas Corpus Date Filed:

Statute authorizing commencement of proceeding in the Appellate Division:

## Proceeding Transferred Pursuant to CPLR 7804(g)

Court: Choose Court

County: Choose County

Judge (name in full):

Order of Transfer Date:

## CPLR 5704 Review of Ex Parte Order:

Court: Choose Court

County: Choose County

Judge (name in full):

Dated:

## Description of Appeal, Proceeding or Application and Statement of Issues

Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.

The NRA appeals the ruling by the Supreme Court denying the NRA's petition for an order pursuant to CPLR 2304 and CPLR 3103 fixing conditions, modifying, or issuing a protective order with respect to a subpoena ad testificandum issued by Letitia James, the Attorney General of New York, to Lt. Col. Oliver North, scheduled for August 20, 2019, in order to protect the NRA's privileged information from disclosure.

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

The NRA seeks an order fixing conditions or modifying the subpoena to its fiduciary and a current Board Member North or a protective order, to permit NRA counsel to be present during examination of North and to lodge concise objections aimed at preserving privileges belonging to the NRA, its counsel and its Board counsel, including communications protected by the attorney-client privilege, the work product doctrine, and as trial preparation material. The NRA in no way wishes to interfere with the NYAG's investigation but has the right to object to disclosure of its privileged information. The NRA will be seeking interim relief pursuant to CPLR 5519 and CPLR 3103 to stay or suspend discovery pending the appeal so that the NRA's substantial rights are not violated.

#### Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

| No. | Party Name  | Original Status | Appellate Division Status |
|-----|---|-----------------|---------------------------|
| 1   | National Rifle Association of America                       | Petitioner      | Appellant                 |
| 2   | Letitia James, in her capacity as New York Attorney General | Respondent      | Respondent                |
| 3   |   |                 |                           |
| 4   |   |                 |                           |
| 5   |   |                 |                           |
| 6   |   |                 |                           |
| 7   |   |                 |                           |
| 8   |   |                 |                           |
| 9   |   |                 |                           |
| 10  |   |                 |                           |
| 11  |   |                 |                           |
| 12  |   |                 |                           |
| 13  |   |                 |                           |
| 14  |   |                 |                           |
| 15  |   |                 |                           |
| 16  |   |                 |                           |
| 17  |   |                 |                           |
| 18  |   |                 |                           |
| 19  |   |                 |                           |
| 20  |   |                 |                           |

## Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

Attorney/Firm Name: William A. Brewer III/Brewer Attorneys & Counselors

Address: 750 Lexington Avenue, Floor 14

City: New York

State: NY

Zip: 10022

Telephone No: 212-224-8810

E-mail Address: wab@brewerattorneys.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name: Svetlana Eisenberg/Brewer Attorneys & Counselors

Address: 750 Lexington Avenue, Floor 14

City: New York

State: NY

Zip: 10022

Telephone No: 212-224-8817

E-mail Address: sme@brewerattorneys.com

Attorney Type: ☒ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name: Emily Stern/Letitia James in her Capacity As New York Attorney General

Address: 28 Liberty Street

City: New York

State: NY

Zip: 10005

Telephone No: 212-416-6241

E-mail Address: Emily.Stern@ag.ny.gov

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name: Monica Connell/Letitia James in her Capacity As New York Attorney General

Address: 28 Liberty Street

City: New York

State: NY

Zip: 10005

Telephone No: 212-416-8965

E-mail Address: monica.connell@ag.ny.gov

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

Attorney/Firm Name:

Address:

City:

State:

Zip:

Telephone No:

E-mail Address:

Attorney Type: ☐ Retained ☐ Assigned ☐ Government ☐ Pro Se ☐ Pro Hac Vice

Party or Parties Represented (set forth party number(s) from table above):

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: MELISSA A. CRANE  
Justice

PART 15

NATIONAL RIFLE ASSOCIATION OF AMERICA,

Petitioner,

- v -

LETITIA JAMES, IN HER OFFICAL CAPACITY  
AS THE ATTORNEY GENERAL OF THE STATE  
OF NEW YORK,

Respondent.

|                 |             |
|-----------------|-------------|
| INDEX NO.       | 158019/2019 |
| MOTION DATE     |             |
| MOTION SEQ. NO. | 001         |
| MOTION CAL. NO. |             |

The following papers, numbered \_ to \_ were read on this motion to/for \_\_\_\_\_.

|  |                        |
|--|------------------------|
|  | <u>PAPERS NUMBERED</u> |
| Notice of Motion/Order to Show Cause — Affidavits — Exhibits ... | _____                  |
| Answering Affidavits — Exhibits _____                            | _____                  |
| Replying Affidavits _____  | _____                  |

CROSS-MOTION:    YES       NO

After oral argument, and for the reasons stated on the record of 8-19-2019, the court denies the application of the NRA to sit in on the investigatory deposition of Mr. North

As explained on the record, the balance of the equities does not favor the NRA. The Attorney General has reiterated time and again that they are not seeking privileged information and just now represented that If Mr. North starts to reveal privileged information, they are going to “cut him off.” Moreover, Mr. North has his own counsel who can protect the privilege, and is likely to protect the privilege given that otherwise Mr. North could be vulnerable to a claim for breach of fiduciary duty.

On the other side, the equities favor the AG. Having the NRA or its Board sit in on an investigatory deposition by law enforcement could have the serious consequence of compromising the integrity of that investigation, particularly given the seemingly acrimonious

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE  
FOR THE FOLLOWING  
REASON(S):

relationship between Mr. North and the NRA Board. For the purposes of this investigation, the NRA and its Board are one and the same. Their interests are united.

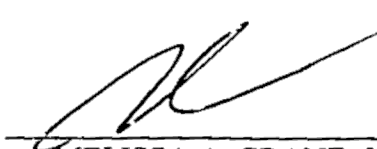
In reaching this conclusion, the court notes that Mr. North and his counsel appear to be operating in good faith as they gave notice to the NRA of the subpoena; and filed at least some documents in redacted form in a case in the Commercial Division. Although some documents were filed in non-redacted form, the court notes that it has been at least a month and there has been no motion to seal from the NRA. Similarly, there was no effort made to have the court review *in camera* the document that is completely redacted and attached as an exhibit to the NRA's papers. Consequently, the court is unable to assess the depth, if any, to which the privilege would have been compromised.

It would also likely compromise the investigation were the transcript to be handed over to the NRA during the investigation. I am not sure of the harm once the investigation is over, but that issue is not ripe yet. The court will retain jurisdiction, should that issue ever arise.

Accordingly, it is

**ORDERED** that the court denies the application and dismisses the petition.

DATED: 8-19, 2019

  
MELISSA A. CRANE, J.S.C

Check one: ☒ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION  
Check if appropriate: MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☐ OTHER  
Check if appropriate: ☐ DO NOT POST ☐ REFERENCE ☐ SETTLE ORDER ☐ SUBMIT ORDER  
☐ FIDUCIARY APPOINTMENT



# **SUMMARY STATEMENT ON APPLICATION FOR EXPEDITED SERVICE AND/OR INTERIM RELIEF**

(SUBMITTED BY MOVING PARTY)

Date: 8/19/19

Title National Rifle Association Index/Indict/Docket # 158019/2019  
of

Matter Letitia James, in her capacity as New York Attorney General

Appeal by NRA from 

|          |                                     |             |                                     |
|----------|-------------------------------------|-------------|-------------------------------------|
| Order    | <input checked="" type="checkbox"/> | Supreme     | <input checked="" type="checkbox"/> |
| Judgment | <input type="checkbox"/>            | Surrogate's | <input type="checkbox"/>            |
| Decree   | <input type="checkbox"/>            | Family      | <input type="checkbox"/>            |

 of County New York  
Court entered on 8/19, 20 19

Name of Judge Melissa Crane Notice of Appeal filed on 8/19, 20 2019

If from administrative determination, state agency \_\_\_\_\_

Nature of action Action to modify a subpoena (CPLR 2304) or issue a protective order (3103)  
or proceeding to allow NRA counsel to object at oral testimony to protect privileges.

Provisions of 

|                                     |          |
|-------------------------------------|----------|
| <input checked="" type="checkbox"/> | order    |
| <input type="checkbox"/>            | judgment |
| <input type="checkbox"/>            | decree   |

 appealed from \_\_\_\_\_

This application by 

|           |            |
|-----------|------------|
| appellant | respondent |
|-----------|------------|

 is for a stay pursuant to CPLR 5519(c) and CPLR 3103(b) pending determination of the appeal of the denial of Appellant's petition for an order modifying the subpoena and/or a protective order to protect privileges.

If applying for a stay, state reason why requested Oral examination pursuant to NYAG's subpoena scheduled for tomorrow August 20, 2019. A stay maintains the status quo without harm to Appellant pending determination.

Has any undertaking been posted No If "yes", state amount and type \_\_\_\_\_

|  |  |
|--|--|
| Has application been made to court below for this relief <u>Yes.</u> | If "yes", state Disposition <u>Denied.</u> |
| Has there been any prior application here in this court <u>No.</u>   | If "yes", state dates and nature _____     |

|  |                           |
|--|---------------------------|
| Has adversary been advised of this application <u>Yes.</u> | Does he/she consent _____ |
|--|---------------------------|



Attorney for Movant

Attorney for Opposition

Name Svetlana M. Eisenberg

Emily Stern, New York Attorney General

Address 750 Lexington Ave, Floor 14

28 Liberty Street

New York, NY 10022

New York, NY 10005

Tel. No. 212-224-8817

Steven C. Wu, NY Attorney Gen.  
212-416-6312

Appearing by in person

in person

Brewer

Svetlana M. Eisenberg  
William A. Brewer III  
Alexandria Goldfarb

Steven Wu  
Monica Connell  
William Wang  
Yael Fuchs

(Do not write below this line)

DISPOSITION

Application denied.

Motion Date 9/3/19 Opposition 8/28/19 Reply 9/3/19

EXPEDITE ☒ PHONE ATTORNEYS DECISION BY

ALL PAPERS TO BE SERVED PERSONALLY.

EM  
Court Attorney